

Application No. 10/645,588
Reply to Office Action of May 23, 2006

IN THE DRAWINGS

The attached sheets of drawings includes changes to Figs. 5 and 6. These sheets, which includes Figs. 5 and 6, replace the original sheets including Figs. 5 and 6.

Attachment: Replacement Sheets

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-9 and 11-20 are now pending in this application. Claim 10 is canceled herein. Claims 3, 4, 7, 14, 15, 18, and 19 are herein amended. No new matter has been added.

In the outstanding Office Action, the Specification and the Drawings were objected to. Applicant herein submits amendments to the specification and corrected drawing sheets. Applicant believes such amendments and corrections have remedied the Office's objections, and respectfully requests withdrawal of these objections. Applicant specifically notes that reference character 20 indicates the lower sheath, and reference character 200 indicates the vagina. Except as noted in the correction of Fig. 6, Applicant submits that such use in the figures and specification is correct.

The Information Disclosure Statement was deemed improper. In response thereto, Applicant herein submits a corrected Information Disclosure Statement and earnestly requests consideration of these references.

Claim 10 was rejected under 35 U.S.C. §112, first paragraph, as not enabled. Claims 3, 4, 7-9, 14, 15, 18, and 19 were rejected under 35 U.S.C. §112, second paragraph, as indefinite. Claims 1, 3, and 12 were rejected under 35 U.S.C. §102(e) as anticipated by Gellman, U.S. Patent Publication 2004/0039246. Claim 11 was rejected under 35 U.S.C. §103(a) as obvious over Gellman, U.S. Patent Publication 2004/0039246, in view of Gellman, U.S. Patent Publication 2002/0156488. Claims 13, 14, 16, 17, 19, and 20 were indicated as allowable, and claims 2, 5, and 6 were indicated as allowable, but objected to. Applicant thanks the Office for its indication of allowable subject matter.

Claim 10 was rejected under 35 U.S.C. §112, first paragraph, as not enabled. In response thereto, claim 10 is canceled. Applicant submits that such rejection is rendered moot by this cancellation.

Claims 3, 4, 7-9, 14, 15, 18, and 19 were rejected under 35 U.S.C. §112, second paragraph, as indefinite. In response, claims 3, 4, 7, 14, 15, 18, and 19 are herein amended. Applicant submits that such amendment has remedied any indefiniteness, and requests withdrawal of these rejections.

Regarding the rejection of claims 8 and 9, applicant submits that one skilled in the art would understand the scope of these claims as drafted. Accordingly, Applicant traverses these rejections.

Claim 8, from which claim 9 depends, is directed to the sling assembly of claim 1, with the further limitations that the first and second upper sheaths each have an end proximate the lower sheath. The ends of the first and second upper sheaths proximate the lower sheath cooperatively associate with the lower sheath by being placed in a telescoping relationship with the lower sheath producing first and second overlapping portions. The central portion of the sling is free of any overlapping sheath portions. As can be seen by reference to Fig. 1, the central portion of the sling is the portion where the lower sheath 20 is associated with the tab portion 24 and suture 22. As can be seen, upper sheaths 12 and 14 can clearly telescope over lower sheath 20, without having such overlapping portions at the central portion of the sling. Clearly, the sling can be enveloped by the sheath without having overlapping portions at the central portion- it simply requires that the overlapping portions have such overlap at locations away from the central portion. Accordingly, applicant respectfully requests the withdrawal of the rejections of claim 8, and its dependent claim 9, as indefinite.

Claims 1, 3, and 12 were rejected under 35 U.S.C. §102(e) as anticipated by Gellman, U.S. Patent Publication 2004/0039246 (hereinafter "Gellman '246"). Applicant traverses these rejections, as the Office has failed to state a prima facie case of anticipation.

Claim 1 is directed to a sling assembly comprising a surgical sling configured to be implanted during a surgical sling procedure and a removable sheath assembly situated about the surgical sling. The sling has first and second regions and a central portion. The removable sheath assembly has first and second upper sheaths and a lower sheath. The first upper sheath is configured to be situated about the first region of the surgical sling, and the second upper sheath is configured to be situated about the second region of the surgical sling. The lower sheath is configured to be situated about the central portion of the surgical sling and to be in cooperative association with both the first and second upper sheaths. Claims 3 and 12 both depend from claim 1.

The present invention, as claimed in claim 1 and the claims depending therefrom, includes a removable sheath with a first and second upper sheath and a lower sheath, with the sheaths being in cooperative association. To the contrary, the Gellman '246 reference discloses a protective sleeve which may be removed, but discloses nothing more about the protective sleeve.

The Office cites Fig. 11a and the accompanying description as disclosing the sheaths of the present invention. Applicant respectfully traverses. Applicant points out that Fig. 11a discloses a sling with a non-synthetic material wrapped around a portion thereof. *See* col. 15, par. 0170. That this non-synthetic wrapping is a removable sheath with first and second upper sheaths and a lower sheath protective sheaths is clearly not shown or suggested. That is, there is no disclosure or suggestion of such sheath arrangement to allow the novel removability of the present invention. Further, the non-synthetic material wrapped around the sling in the Gellman '246 invention is not a removable sheath, but is, in fact, part of the

structure of the sling, left in place following the placement of the sling to reduce tissue erosion. *See* col. 14, pars. 0167-0169. Failing to disclose a removable sheath assembly having first and second upper sheaths and a lower sheath, the Gellman '246 reference does not anticipate or render obvious claim 1, nor any of the claims depending therefrom. Accordingly, applicant respectfully requests withdrawal of these rejections and allowance of claims 1, 3, and 12.

Claim 11 was rejected under 35 U.S.C. § 103(a) as obvious over Gellman '246, in view of Gellman, U.S. Patent Publication 2002/0156488 (hereinafter Gellman '488). Applicant traverses this rejection, as the Office has failed to state a prima facie case of obviousness.

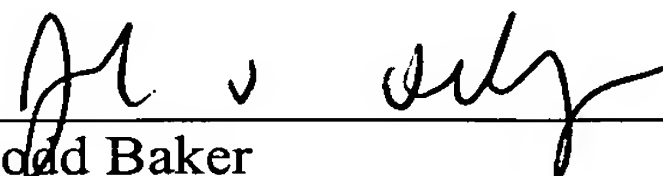
Claim 11 depends from claim 1. As discussed above, the Gellman '246 reference doesn't disclose a removable sheath assembly having first and second upper sheaths and a lower sheath. Neither does Gellman '488. Indeed, there is no teaching or suggestion of a removable sheath with a first and second upper sheath and a lower sheath, with the sheaths being in cooperative association, in either of the Gellman references. Accordingly, the combination of the two Gellman references cannot render claim 1, or any of its dependent claims, obvious. Accordingly, applicant respectfully requests the withdrawal of the rejection of claim 11.

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In light of the above discussion and the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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